

Notice of Allowability

Application No.

09/506,078

Examiner

Shanon Foley

Applicant(s)

CAMPOS ET AL.

Art Unit

1648

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 7/1/4.
2. ☒ The allowed claim(s) is/are 37 and 38.
3. ☒ The drawings filed on 16 February 2000 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
 - * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

EXAMINER'S AMENDMENT

The previous Examiner's Amendment mailed July 28, 2004 is **VACATED**.

The previous Examiner's amendment contained an inadvertent typo wherein new claim 38 inadvertently referred to the same SEQ ID NOs within the fusion protein as claim 37. The instant amendment remedies the inadvertent typo in claim 38. The fusion protein of claim 38 now comprises SEQ ID NO: 13 and SEQ ID NO: 35, which was obviously intended in the statement of reasons for allowance.

Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

The application has been amended as follows:

Claims 21 and 36 have been cancelled and new claims 37 and 38 have been added.

37. (New) A fusion protein for producing an immune response in a vertebrate, which fusion protein comprises:

- (a) a first proteinaceous portion comprising a peptide sequence of the gonadotropin releasing hormone (GnRH) peptide as set forth in SEQ ID NO: 13 connected to
- (b) a second proteinaceous portion comprising a polypeptide sequence of the Bovine Herpes Virus Type-1 (BHV-1) gD protein as set forth in SEQ ID NO: 29;

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wherein the activity of said GnRH peptide is to be inhibited within the vertebrate, and which proteinaceous portion by itself is incapable of eliciting an effective immunoinhibitory response in said vertebrate and when the vertebrate is vaccinated with an effective amount of said fusion protein, the vertebrate recognizes said first proteinaceous portion (a) and induces an immune response capable of inhibiting the activity of said GnRH peptide within the vertebrate.

38 (New) A fusion protein for producing an immune response in a vertebrate, which fusion protein comprises:

(a) a first proteinaceous portion comprising a peptide sequence of the GnRH peptide as set forth in SEQ ID NO: 13 connected to

(b) a second proteinaceous portion comprising a polypeptide sequence of the BHV-1 gD protein as set forth in SEQ ID NO: 35;

wherein the activity of said GnRH peptide is to be inhibited within the vertebrate, and which proteinaceous portion by itself is incapable of eliciting an effective immunoinhibitory response in said vertebrate and when the vertebrate is vaccinated with an effective amount of said fusion protein, the vertebrate recognizes said first proteinaceous portion (a) and induces an immune response capable of inhibiting the activity of said GnRH peptide within the vertebrate.

The following is an examiner's statement of reasons for allowance:

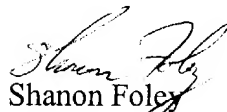
As stated in the Office action March 9, 2004, the prior art does not teach or suggest SEQ ID NOs: 29 or 35. The prior art also does not teach or suggest a fusion protein comprising either of these sequences in the alternative with SEQ ID NO: 13.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shanon Foley whose telephone number is (571) 272-0898. The examiner can normally be reached on M-F 9:30 AM - 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Housel can be reached on (571) 272-0902. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Shanon Foley
Patent Examiner, 1648